



ENROLLED

1 HB48
2 201145-3
3 By Representative Dismukes
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 02/14/2019



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HB48

1
2 ENROLLED, An Act,

3 To amend Sections 12-15-312 and 12-15-319, Code of
4 Alabama 1975, to create Jessi's law; to provide that
5 reasonable efforts to preserve and reunify a family prior to
6 the placement of a child in foster care, to prevent or
7 eliminate the need to remove a child from the child's home,
8 and to make it possible for a child to return safely to the
9 child's home, may not be required in a case where a parent has
10 been convicted for the crime against the child of rape in the
11 first degree, sodomy in the first degree, or incest; and to
12 require a juvenile court to find that a parent is unable to
13 properly care for a child and to discharge his or her
14 responsibilities to and for the child in any case where the
15 parent has received a conviction for the crime against the
16 child of rape in the first degree, sodomy in the first degree,
17 or incest, and shall terminate the parental rights of the
18 parent.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and may be cited
21 as Jessi's Law.

22 Section 2. Sections 12-15-312 and 12-15-319, Code of
23 Alabama 1975, are amended to read as follows:

24 "§12-15-312.



1 "(a) When the juvenile court enters an order
2 removing a child from his or her home and places the child
3 into foster care or custody of the Department of Human
4 Resources pursuant to this chapter, the order shall contain
5 specific findings, if warranted by the evidence, within the
6 following time periods while making child safety the paramount
7 concern:

8 "(1) In the first order of the juvenile court that
9 sanctions the removal, whether continuation of the residence
10 of the child in the home would be contrary to the welfare of
11 the child. This order may be the pick-up order that the
12 juvenile court issues on the filing of a dependency petition.

13 "(2) Within 60 days after the child is removed from
14 the home of the child, whether reasonable efforts have been
15 made to prevent removal of the child or whether reasonable
16 efforts were not required to be made.

17 "(3) Within 12 months after the child is removed
18 from the home of the child and not less than every 12 months
19 thereafter during the continuation of the child in out-of-home
20 care, whether reasonable efforts have been made to finalize
21 the existing permanency plan.

22 "(b) As used in this chapter, reasonable efforts
23 refers to efforts made to preserve and reunify families prior
24 to the placement of a child in foster care, to prevent or
25 eliminate the need for removing the child from the home of the



1 child, and to make it possible for a child to return safely to
2 the home of the child. In determining the reasonable efforts
3 to be made with respect to a child, and in making these
4 reasonable efforts, the health and safety of the child shall
5 be the paramount concern. If continuation of reasonable
6 efforts is determined to be inconsistent with the permanency
7 plan for the child, reasonable efforts shall be made to place
8 the child in a timely manner in accordance with the permanency
9 plan including, if appropriate, through an interstate
10 placement, and to complete whatever steps are necessary to
11 finalize a permanent plan for the child.

12 "(c) Reasonable efforts shall not be required to be
13 made with respect to a parent of the child if the juvenile
14 court has determined that the parental rights of the parent to
15 a sibling of the child have been involuntarily terminated or
16 that a parent has done any of the following:

17 "(1) Subjected a child to an aggravated circumstance
18 against the child or a sibling of the child and the risk of
19 child abuse or neglect is too high for the child to remain at
20 home safely or to be returned home. An aggravated circumstance
21 includes, but is not limited to, ~~rape, sodomy, incest,~~
22 aggravated stalking, abandonment, torture, or chronic abuse,
23 ~~or sexual abuse~~. An aggravated circumstance may also include
24 any of the following:



1 "a. Allowing a child to use alcohol or illegal drugs
2 to the point of abuse, neglect, or substantial risk of harm.

3 "b. Substance misuse or abuse, or both, by a parent
4 or interfering with the ability to keep the child safe and
5 refusal of a parent to participate in or complete treatment,
6 or where treatment has been unsuccessful.

7 "c. A parent demonstrating extreme disinterest in
8 the child by doing either of the following:

9 "1. Not complying with the steps outlined in the
10 individualized service plan or case plan over a period of six
11 months.

12 "2. Repeatedly leaving the child with someone who is
13 unwilling or incapable of providing care and not returning for
14 the child as promised.

15 "d. Abandoning an infant or young child when the
16 identity of the child is unknown and the parent is unknown or
17 unable to be located after a diligent search.

18 "e. When the parent has an emotional or mental
19 condition and there is clearly no treatment that can improve
20 or strengthen the condition enough to allow the child to
21 remain at home safely or to return home safely.

22 "f. When a parent is incarcerated and the child is
23 deprived of a safe, stable, and permanent parent-child
24 relationship.



1 "(2) Committed murder or manslaughter of another
2 child or murder or manslaughter of the other parent of the
3 child.

4 "(3) Been convicted of rape in the first degree
5 pursuant to Section 13A-6-61, sodomy in the first degree
6 pursuant to Section 13A-6-63, or incest pursuant to Section
7 13A-13-3. The juvenile court shall make a finding that the
8 crime of rape, sodomy, incest, or other sexual abuse actually
9 occurred by the parent against a child in any instance where
10 the parent has been convicted as described in this
11 subdivision.

12 "~~(3)~~(4) Aided or abetted, attempted, conspired, or
13 solicited to commit murder or manslaughter of another child or
14 aided or abetted, attempted, conspired, or solicited to commit
15 murder or manslaughter of the other parent of the child.

16 "~~(4)~~(5) Committed a felony assault which resulted in
17 serious bodily injury to the child or another child or to the
18 other parent of the child. The term serious bodily injury
19 means bodily injury which involves substantial risk of death,
20 extreme physical pain, protracted and obvious disfigurement,
21 or protracted loss or impairment of the function of a bodily
22 member, organ, or mental faculty.

23 "(d) Nothing in the exceptions to making reasonable
24 efforts listed in subsection (c) shall be interpreted to
25 require the reunification of a child with a stepparent or



1 paramour of a parent under similar circumstances. The crimes
2 listed in subsection (c) may include those from other states
3 or federal crimes if the elements of the crimes are
4 substantially similar to those crimes in this state.

5 "(e) If reasonable efforts are not made with respect
6 to a child as a result of a determination made by a juvenile
7 court in situations as described above, a permanency hearing,
8 as provided in Section 12-15-315, in which in-state or
9 out-of-state placement options for the child are considered,
10 shall be held for the child within 30 days after the
11 determination. Reasonable efforts shall be made to place the
12 child in a timely manner in accordance with the permanency
13 plan and to complete whatever steps are necessary to finalize
14 permanent placement of the child. Reasonable efforts to place
15 a child for adoption or with a legal guardian or legal
16 custodian, including identifying appropriate in-state and
17 out-of-state placements, may be made concurrently with other
18 reasonable efforts.

19 "§12-15-319.

20 "(a) If the juvenile court finds from clear and
21 convincing evidence, competent, material, and relevant in
22 nature, that the parents of a child are unable or unwilling to
23 discharge their responsibilities to and for the child, or that
24 the conduct or condition of the parents renders them unable to
25 properly care for the child and that the conduct or condition



1 is unlikely to change in the foreseeable future, it may
2 terminate the parental rights of the parents. In determining
3 whether or not the parents are unable or unwilling to
4 discharge their responsibilities to and for the child and to
5 terminate the parental rights, the juvenile court shall
6 consider the following factors including, but not limited to,
7 the following:

8 "(1) That the parents have abandoned the child,
9 provided that in these cases, proof shall not be required of
10 reasonable efforts to prevent removal or reunite the child
11 with the parents.

12 "(2) Emotional illness, mental illness, or mental
13 deficiency of the parent, or excessive use of alcohol or
14 controlled substances, of a duration or nature as to render
15 the parent unable to care for needs of the child.

16 "(3) That the parent has tortured, abused, cruelly
17 beaten, or otherwise maltreated the child, or attempted to
18 torture, abuse, cruelly beat, or otherwise maltreat the child,
19 or the child is in clear and present danger of being thus
20 tortured, abused, cruelly beaten, or otherwise maltreated as
21 evidenced by the treatment of a sibling.

22 "(4) Conviction of and imprisonment for a felony.

23 "(5) Commission by the parents of any of the
24 following:



1 "a. Murder or manslaughter of another child of that
2 parent.

3 "b. Aiding, abetting, attempting, conspiring, or
4 soliciting to commit murder or manslaughter of another child
5 of that parent.

6 "c. A felony assault or abuse which results in
7 serious bodily injury to the surviving child or another child
8 of that parent. The term serious bodily injury shall mean
9 bodily injury which involves substantial risk of death,
10 extreme physical pain, protracted and obvious disfigurement,
11 or protracted loss or impairment of the function of a bodily
12 member, organ, or mental faculty.

13 "(6) Unexplained serious physical injury to the
14 child under those circumstances as would indicate that the
15 injuries resulted from the intentional conduct or willful
16 neglect of the parent.

17 "(7) That reasonable efforts by the Department of
18 Human Resources or licensed public or private child care
19 agencies leading toward the rehabilitation of the parents have
20 failed.

21 "(8) That parental rights to a sibling of the child
22 have been involuntarily terminated.

23 "(9) Failure by the parents to provide for the
24 material needs of the child or to pay a reasonable portion of
25 support of the child, where the parent is able to do so.



1 "(10) Failure by the parents to maintain regular
2 visits with the child in accordance with a plan devised by the
3 Department of Human Resources, or any public or licensed
4 private child care agency, and agreed to by the parent.

5 "(11) Failure by the parents to maintain consistent
6 contact or communication with the child.

7 "(12) Lack of effort by the parent to adjust his or
8 her circumstances to meet the needs of the child in accordance
9 with agreements reached, including agreements reached with
10 local departments of human resources or licensed child-placing
11 agencies, in an administrative review or a judicial review.

12 "(b) If a parent has been convicted of rape in the
13 first degree pursuant to Section 13A-6-61, sodomy in the first
14 degree pursuant to Section 13A-6-63, or incest pursuant to
15 Section 13A-13-3, the juvenile court shall make a finding that
16 the parent is unable to properly care for a child and to
17 discharge his or her responsibilities to and for a child, and
18 shall terminate the parental rights of the parent.

19 "(b)(c) A rebuttable presumption that the parents
20 are unable or unwilling to act as parents exists in any case
21 where the parents have abandoned a child and this abandonment
22 continues for a period of four months next preceding the
23 filing of the petition. Nothing in this subsection is intended
24 to prevent the filing of a petition in an abandonment case
25 prior to the end of the four-month period."



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1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-MAY-19, as amended.

Jeff Woodard
Clerk

Senate	28-MAY-19	Amended and Passed
House	28-MAY-19	Concurred in Senate Amendment

